

Remarks

This amendment responds to the official action mailed October 9, 2007 and is accompanied by a petition for extension under 37 C.F.R. §1.136(a) and the required official fee.

Claims 1, 5 and 6 are pending. Claim 1 has been amended to better distinguish over the prior art. Claim 5 has likewise been amended to better distinguish over the prior art and is placed in independent form. No new matter is presented.

The remaining claims have been withdrawn from consideration by the examiner, as nonelected after applicant's election of Species 1, Fig. 6, responsive to a restriction requirement. In the restriction requirement, the identified species were considered to be distinct based on differences in structure. However, the elected pending claims are directed to structure that is found in each of the disclosed species.

The invention in each of the embodiments is a shower arrangement with a hollow wall bar connected at one end to a wall water supply so as to affix the hollow wall bar parallel to a wall surface. The hollow wall bar serves both as a water carrying pipe leading to a connection for a shower hose, and also as a positioning wall bar for carrying a sliding holder by which a holder for a hand shower can be set at a height chosen by the user. The hand shower is coupled to the water supply via the hollow wall bar and via the shower hose, enabling the hand shower to be removed from the sliding holder when the user chooses manually to direct the shower jet from the hand shower, where desired within the limits permitted by the shower hose.

The invention claimed as a whole is not found in the prior art of record. There is no articulated explanation of record, and no explanation apparently possible, demonstrating how or why a person of ordinary skill might routinely modify or combine or adapt or reconfigure the products and techniques known in the prior art, in any particular manner resembling the claimed invention, where success might be predictable in meeting the objects addressed and the solutions provided by applicant's invention. By this amendment, applicant has amended the claims to better distinguish

over the prior art. Claims 1, 5 and 6 as amended are in condition for allowance. The remaining claims are allowable at least by virtue of dependency and should be rejoined and allowed as well.

In the official action, claims 1, 5 and 6 are rejected as anticipated by US 3,121,235 – Gellman. Gellman fails to disclose aspects of applicant's invention that are particularly and distinctly claimed. Therefore, the rejection under 35 U.S.C. §102 is unwarranted.

Gellman discloses a vertical pipe 40, but the Gellman pipe is not attached to a wall water connection. In Gellman's embodiments, the vertical pipe is coupled to a feed hose emerging from a conventional showerhead fixture comprising a pipe 12 and showerhead 20 (Fig. 1), or to such a pipe 118 alone (Fig. 8), or to a hose 108 (Fig. 5). There is no teaching in Gellman that teaches or suggests using the attachment of a vertical pipe to a wall connection so as to provide a wall bar running along the wall, supporting a sliding holder on which a hand shower is carried at a vertical height selected by the user.

The pipe 40 in Gellman is not attached to the wall connection. The pipe 40 is not held in position as a wall rod along the wall surface, by connection to the water carrying wall connection. Instead, Gellman's pipe 40 is affixed by support 48, 50 or 66, 68, 70. In Fig. 1 of Gellman, a flexible section 30 provides the flow connection. A flexible section plainly cannot lend the necessary support to fix pipe 40 in any particular position. In Figs. 5 and 8, of Gellman, there is no association between the pipe 40 and the wall connection because the pipe is located at an indefinite spacing from the wall (Fig. 5) or at least at a substantial spacing (Fig. 8). Gellman does not teach the aspect of applicant's invention, particularly claimed, that the coupling of the hollow wall bar to the water supply at the wall, positions the wall bar to run along the wall and function both as a water supply conduit, and as a positioning rail supporting the sliding holder for a hand shower.

Gellman does not even disclose a hand shower, i.e., a shower head coupled to the water conduit via a hose so as to permit the user to take the shower head from the

wall bar or other support and manipulate the direction of its shower jet. According to applicant's claims, the vertical wall bar carries a sliding holder for selecting the position of a hand shower that is connected to the vertical wall bar for water flow by a hose. Gellman lacks any sort of hand shower carried on a slider. Gellman fails to disclose or suggest how or why a hand shower might be applied to such a structure. None of Gellman's shower heads are movably disposed on a hose. Gellman does not meet the invention defined in applicant's claims.

In examining the claims, it is appropriate to apply the broadest construction of claim terms that is possible consistent with the specification. In the official action, an explanation is provided as to the elements of Gellman that are considered to meet the claims. A construction that might read the claims on Gellman is not possible, particularly in view of the amendment of the claims.

According to the rejection as stated in the official action, Gellman has a hollow wall bar 10 **configured for** fixing a hand shower having a sliding holder. Applicant disagrees that a disclosure that lacks any mention of a sliding holder or hand shower can properly be deemed to disclose a corresponding member configured to interact with the holder or hand shower. Nevertheless, claim 1 has been amended to more positively recite the slider and the hand shower. The rejection under Section 102 is overcome. Gellman does not disclose a sliding holder or a hand shower coupled to a water-carrying wall bar.

According to the rejection, Gellman has a hand shower 60 [sic. "(68)"] attached via a shower hose 62 to the shower coupling and further comprises at least one adjustable shower 56 or 58 supplied with water through the hollow bar. Reconsideration is requested. This interpretation of Gellman is inconsistent with the specification as well as the dictionary definition of the terms "hand shower" and "hose." Gellman's upwardly directed shower head 60 is not a hand shower because it cannot be taken by hand to direct the water jet from the shower. A hand shower needs a shower head that is manipulated by hand while showering.

Apart from the construction of "hand shower," it is inconsistent with the specification and the dictionary to assert that Gellman's shower head 60 is coupled to pipe 40 by a hose. A "hose" as defined in the dictionary (entirely consistently with applicant's disclosure) is a **flexible** tube for conveying fluids. See the definition of hose, for example, in Merriam-Webster's Collegiate Dictionary, 11th Ed., p. 601. Gellman's reverse bend in the lower portion of the pipe, providing an upturned end portion 62, does not disclose or suggest a hand shower coupled to the pipe via a flexible tube, i.e., by a shower hose. These terms are definite and well understood, clearly distinguishing the claims from the prior art relied upon. Reconsideration and withdrawal of the rejection are requested.

Gellman has various showerheads 56, 58, 60 coupled to the pipe 40. None of these showerheads is carried on a shower hose. No provision is made for vertical placement at a selected height on a wall bar used as a wall bar for a sliding holder and as a connecting conduit leading to a hose coupled to a hand shower. These aspects are not found in Gellman.

A rejection for anticipation is unwarranted if there is an element of the claimed invention missing in the prior art. In the present case, there are plural specific differences that distinguish the claimed invention from Gellman. Moreover, Gellman and the other prior art references, as well as one's reasonable expectations about what might predictably succeed in a shower arrangement for retro fit or the like, fail to encompass the idea of using the connection of a pipe to the wall water fitting as the connection that positions the pipe to function not only as a pipe but also as a wall bar for vertically placing a hand shower slider, wherein the pipe defines the water conduit that couples to the proximal end of a shower hose that carries at the other end the hand shower to be placed on the slider, where the hand shower can spray or can be removed for hand manipulation on the end of the hose. One cannot conclude that the claimed invention is known or would have been obvious.

Applicant requests that the rejection of claims 1, 5 and 6 on grounds of anticipation by Gellman be withdrawn as unwarranted, and that claims 1, 5 and 6 be allowed. Applicant also requests rejoinder and allowance of nonelected claims 2-4 and

7-21, which recite a reasonable number of specific embodiments within the scope of generic claim 1, from which the nonelected claims depend.

The claims as amended are definite and contain terms with definite definitions that are not properly ignored. The invention claimed as a whole is not met by Gellman. One cannot even compare the claims to Gellman except by making absurd suggestions that a rigid U-bent pipe discloses a shower hose and a spray head permanently attached on the end of such rigid U-bent pipe discloses a hand shower. These suggestions are unwarranted or now have been obviated by appropriate amendment of the claims. The claimed invention is novel over Gellman. The differences between the invention and the prior art are such that the subject matter claimed as a whole would not have been known or obvious to a person of ordinary skill.

Reconsideration and allowance are requested.

Respectfully submitted,

Date: March 21, 2008

Docket No.: D4700-386
[P42560 US]

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